

Massachusetts Public Employee Retirement Guide

REVISED 6.2000



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Massachusetts Public Employee Retirement Guide

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Public Employee Retirement Administration Commission

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Letter from the Executive Director

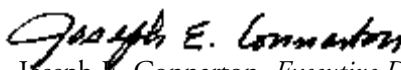
Members of the Commonwealth's Public Employee Retirement Systems:

Chapter 306 of the Acts of 1996 created the Public Employee Retirement Administration Commission (PERAC) to oversee and regulate the 106 public pension systems in the Commonwealth. One important aspect of PERAC's stewardship is the distribution of information about the rights and benefits of public employees under the governing statute, Chapter 32 of the Massachusetts General Laws.

To assist members of the systems and other interested parties about retirement benefits, PERAC has prepared three guides entitled, *Massachusetts Public Employee Retirement Guide*, *Guide to Disability Retirement for Public Employees*, and *Guide to Survivor Benefits for Public Employees*.

Please take the time to carefully review this information. In order to achieve the goal of a secure and comfortable retirement, every active employee must plan for the long-term and formulate a sound financial strategy. PERAC and the Commonwealth's public employee retirement systems are working together to provide all members with clear, accurate and up to date information. We are committed to putting our resources at your disposal. I urge members to call upon us for information and guidance.

Sincerely,


Joseph E. Connarton, Executive Director

This guide is designed to familiarize you with contributory retirement systems for public employees. The contents do not affect the contractual rights between a system and its members and, in the case of any conflict, Chapter 32 of the Massachusetts General Laws and the regulations promulgated by the Public Employee Retirement Administration Commission shall govern.

All citations noted in this document are from G.L. c. 32 unless otherwise indicated.

Updates to This Guide

This guide reflects changes and amendments to the law through the fiscal 2001 state budget. Subsequent updates can be found on line at www.state.ma.us/PERAC.

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Composition of the Retirement Systems

There are 106 contributory retirement systems for public employees in Massachusetts. A retirement board governs each system and all boards, although operating independently, are bound together under one retirement law—Chapter 32 of the Massachusetts General Laws—that establishes benefits, contribution requirements, and an accounting and funds structure for all systems.

There are several categories of retirement systems or boards:

County Boards

These boards administer retirement for county employees and employees of smaller towns and units within counties that do not have their own boards. In counties that have been abolished, regional retirement boards administer retirement for retirees and current employees.

Municipal Boards

These boards are the retirement administrators for individual cities and larger towns within the Commonwealth.

State Board

This is the board for all state employees. There are also some smaller non-state units that are administered by this board.

Teachers' Board

This board covers all public school teachers, with the exception of Boston teachers. The Boston Retirement Board administers Boston teachers' benefits, although the state is responsible for the cost.

Other Boards

Seven other boards as established by Chapter 32: the Massachusetts Turnpike Authority, Massachusetts Housing Finance Agency, Massachusetts Port Authority, Blue Hills Regional School Employees, Greater Lawrence Sanitary District, Minuteman Regional Vocational Technical School District, and Massachusetts Water Resources Authority.

Pension Reserves Investment Management (PRIM) Board

This board is charged with general supervision of the investment and reinvestment of the Pension Reserves Investment Trust (PRIT) Fund for the state employees, state teachers and other participating/purchasing retirement systems.

Retirement Board Makeup

All contributory retirement boards for public employees in Massachusetts consist of five members:

City or Town Retirement Boards

In city and town Retirement Systems, the city auditor, town accountant or other official having similar duties and powers is the board member *ex-officio*. The second member is appointed by the board of selectmen, the mayor or the city manager. The third and fourth members are elected by the members of the Retirement System and are active or retired members of the system. The fifth member is chosen by the other four and cannot be an employee, retiree, or official of the governmental unit. One of these five board members is elected by the other four to serve as Chairman.

County Retirement Boards

The County Treasurer (or director of finance if there is no treasurer) is the member ex-officio and Chairman of a County Retirement Board. The county commissioners appoint the second member. The third and fourth members are elected by the members of the Retirement System and are active or retired members of the system. The fifth member is elected by the County Retirement Board Advisory Council and is the treasurer of one of the governmental units within the system. Regional Retirement Boards for abolished counties have a different composition.

State Retirement Board

The State Treasurer is the member ex-officio and Chairman of the State Retirement Board. The second member is appointed by the Treasurer, the third and fourth members are elected by the members of the Retirement System and are active or retired members of the system. The fifth member is chosen by the other four and cannot be an employee, a retiree, or an official of the Commonwealth.

Teachers' Retirement Board

The Commissioner of Education or his designee is the member ex-officio and Chairman of the Teachers' Retirement Board. The second member is the State Treasurer or her designee. The third member is the State Auditor or his designee. A fourth member is a retired former public school teacher and is appointed by the governor. The fifth and sixth members are elected for a term not to exceed four years by the members of the Teachers' Retirement System and are active or retired members of the system. The other six members select the seventh member of the Teachers' Retirement Board, also for a four-year term.

Public Employee Retirement Administration Commission

All 106 retirement systems are overseen by the Public Employee Retirement Administration Commission (PERAC), which was created by Chapter 306 of the Acts of 1996.

The Commission consists of seven members. The Governor appoints three members: one is the Governor or his designee, one is a representative of a public safety union and one is an expert in the investment of funds. The State Auditor appoints three members: one is the Auditor or his designee, one is the President of the Massachusetts AFL-CIO or his designee, and one is a representative of the Massachusetts Municipal Association. A seventh member of the Commission is appointed by the other six members and serves as Chairman. An executive director, selected by the Commission, plans, directs, coordinates, and executes administrative functions in conformity with the policies and directives of the Commission.

Membership in the Retirement Systems

Q *Is membership required for all new employees?*

A Membership in a contributory retirement system is mandatory for nearly all public employees who are regularly employed on a full-time basis. Each retirement board exercises full jurisdiction to determine an employee's eligibility for membership in cases involving part-time, provisional, temporary provisional, seasonal or intermittent employment or service. Certain part time, seasonal or temporary employees

who are ineligible for membership may be required to contribute to Social Security or participate in an alternative plan.

Q *For whom is membership optional?*

A Membership is optional for certain individuals. Elected officials, state officials appointed by the governor, and dentists or physicians employed as hospital interns may elect to become members within 90 days of commencement of service.

Q *Who is barred from membership?*

A You may be excluded if you are paid through a federal grant for a position for which you are required to be a member of the Federal Civil Service Retirement System.

You are not barred from membership if you previously worked under the Federal Civil Service Retirement System. If you receive retirement benefits from the Federal Civil Service Retirement System and also from a retirement system under Chapter 32, the latter benefit will be limited to a certain maximum.

Membership Status

Membership status is defined in two ways in the retirement law: “member-in-service,” and “member inactive.”

Member-in-Service

Any member who is regularly employed in the performance of his/her duties is considered a member-in-service. Member-in-service status will continue until death or until separation becomes effective by reason of retirement, resignation, failure of re-election or re-appointment, or removal or discharge from office or position.

Member Inactive

Members-in-service become members inactive when they:

- retire and receive a retirement allowance; or
- when their employment has been terminated and they are entitled to any present or potential retirement allowance or a return of accumulated deductions; or
- when they are on an authorized leave of absence without pay for a reason other than retirement board duties which extends for more than a year; or
- upon the expiration of their term if they are elected officials who are not reelected.

Dual Membership

Q *What if I am employed by more than one governmental unit?*

A If you are concurrently employed by two or more governmental units which have established contributory retirement systems subject to the provisions of Chapter 32, you may, subject to the boards' rules, become a member of each system, with appropriate deductions being taken from each payroll, and you will be eligible to receive retirement allowances and other benefits from each system.

Q *Will my total benefit be twice as large as that received by someone employed by one governmental unit?*

A Upon your retirement, the total benefit received from such "dual membership" cannot exceed the amount you would have received had your total regular compensation been received from a single governmental unit. You cannot be credited with more than one year of creditable service during any one calendar year.

For example, an employee who has membership in two systems, with six months of service in one system and nine

months of service in another system, will be credited with 12 months of service, not 15. The boards of the systems involved will determine how much creditable service shall be allowed by each board, subject to the approval of PERAC.

Q *Can I retire from one governmental unit but continue to be employed by another governmental unit?*

A You may terminate your service and apply for a retirement allowance in one system and continue in a second. However, no pension or retirement allowance shall become effective on account of your service in the first system until the date that you terminate service in the second. If you are eligible to receive a disability retirement from one system, your disability pension or retirement allowance will not become effective until you terminate your service from the second system. Until such termination you will be required to waive the receipt of your disability benefit.

Transfer of Service & Deductions

Q *What effect does transferring have on creditable service and accumulated total deductions?*

A Career changes of public employees may entail a transfer from a job presently held to a new job in a different governmental unit with a different retirement system. The accumulated total deductions and corresponding creditable service of members involved in such a change must be transferred from the former retirement system to the new retirement system.

When members who have transferred receive a retirement allowance, the entire amount will be paid by the retirement system from which they retire. The retirement system of which he/she was formerly a member will reimburse the retirement system for the portion of the retirement allowance that is based on his/her previous service.

Statements of Service

Q *Must I furnish my retirement board with information about any past public sector employment?*

A Within one year of becoming a member of a public employee retirement system, (whether you have been restored or reinstated to public service or you have transferred or re-established membership), you must file a detailed statement of all the public service that you have rendered for which you wish to claim credit.

Q *Will my retirement board verify my prior service?*

A Yes, within six months of receipt of your statement of service your retirement board will review and verify all the service that you claim.

If the retirement board determines that you are entitled to creditable service for which you haven't yet made make up payments, the retirement board will inform you in writing of your right to purchase all or part of such service. If you do elect to purchase service, your retirement board may either allow you to make a lump sum payment or establish an installment plan.

At the time you retire, your retirement board is charged with the responsibility of again reviewing your statement of service and again informing you in writing of your right to purchase service.

Annual Reports

Q *How can I find out about the financial condition of the system of which I am a member?*

A Each board is required to prepare an annual report, in an easily understood format, which shows the financial condition of the system as of December thirty-first of the previous year. The report must include the financial transactions, statistical information about the membership, a summary of the most recent audit findings, a summary of the board's investment policy, a summary of the system's investment portfolio, and information pertaining to the most recent actuarial valuation.

A copy of this report or a summary of its contents is available to any member upon request.

The Public Employee Retirement Administration Commission also prepares an annual report about the Commission's activities as well as those of each of the 106 public employee retirement systems. Each year's report is posted on PERAC's Home Page: www.state.ma.us/perac.

Contributions by Members

Q *How much do members contribute?*

A Employees who became members prior to January 1, 1975 must contribute 5 percent of their regular compensation.

- Employees whose membership commenced on or after January 1, 1975 but prior to January 1, 1984 must contribute 7 percent.
- Those employees whose membership began on or after January 1, 1984 but prior to July 1, 1996 must contribute 8 percent.

- Those employees whose membership commenced on or after July 1, 1996 must contribute 9 percent.
- Those employees who are appointed to the state police and whose membership commenced on or after July 1, 1996 must contribute 12 percent.
- Some teachers contribute 11 percent when contributing to an enhanced benefit program.

Contribution Rate for Salary in Excess of \$30,000

Q *Could my contributions be affected by when my membership service began and by the amount of my regular compensation?*

A Yes, if your membership began on or after January 1, 1979 and if your annual rate of regular compensation is \$30,000 or more, the treasurer of the governmental unit for which you work will withhold two percent of that portion of your rate of regular compensation which is in excess of \$30,000. This two percent withholding is in addition to the 7, 8, 9, or 12 percent that is already being deducted from your total regular compensation. This additional withholding will be made each pay period from that amount of your compensation that is in excess of an annual rate of \$30,000 even before your total compensation for the year exceeds \$30,000.

For example, if you became a member in 1981 and your rate of regular compensation is \$40,000: Deductions in the amount of 7% of \$40,000 equaling \$2800 will be taken; and deductions in the amount of 2% of \$10,000 (\$40,000 minus \$30,000) equaling \$200 will also be taken. Your annual contributions will be \$3,000, which will be taken from your rate of regular compensation on a weekly or monthly basis (as determined by your pay period).

Creditable Service

Q *How is creditable service earned?*

A In general, you earn creditable service toward your retirement allowance for the period during which you contribute either 5%, 7%, 8%, 9%, 11%, or 12% of your salary to the retirement system.

Q *May I buy back creditable service?*

A If you terminate your public service and take a refund of your accumulated total deductions and later return to public service, you may re-establish your prior creditable service by buying it back. But, you will begin as a new member, making contributions at the current rate.

Seasonal Employment

Q *How is creditable service calculated for seasonal employees?*

A Employees whose work is found by their retirement board to be seasonal in nature and who work full-time for at least seven months are entitled to one year of creditable service. Retirement boards will, on a board by board basis, determine how much full-time seasonal service will constitute the equivalent of one year of service for those who work less than seven months a year.

Two-Year Creditable Service Requirement

Q *What creditable service requirements pertain to the transfer or re-establishment of membership and retirement benefit eligibility?*

A No member who is reinstated or re-enters or who transfers or re-establishes his membership is eligible to receive a superannuation, ordinary disability, or termination retirement allowance until the member has been in active

service for at least two consecutive years following the start of the new employment. This two-year requirement will not apply if the member was eligible to receive a termination retirement allowance or had 10 years of creditable service prior to the last separation from public service. In the few systems that have not adopted the 10-year ordinary disability provision, the member must have 15 years of creditable service.

Q *Is the two-year requirement waived when a transfer involves no break in service?*

A This requirement will not apply once the member has become eligible to retire from the retirement system from which his/her account was transferred by virtue of attaining an age or earning sufficient creditable service.

Workers' Compensation Benefits

Q *How is my creditable service affected by an absence caused by a work-related injury or hazard?*

A Full creditable service will be awarded to any member-in-service for a period of absence that is attributable to an injury sustained or a hazard undergone during employment that results in total incapacitation and for which Workers' Compensation benefits are paid. The member receives the creditable service without having to make contributions to the retirement system. Workers' Compensation benefits received during such a period are not considered to be regular compensation and cannot be used to calculate a retirement allowance.

Military Service

Credit for Military Service Earned During Leave of Absence

Q *Is creditable service earned during a leave of absence to serve in the Armed Forces of the United States?*

A Employees who leave public employment for the purpose of serving in the armed forces, and who are honorably discharged and return to public employment within two years of their discharge from military service, are entitled to have periods of service in the armed forces of the United States counted as creditable service.

Q *Does the law limit how much credit such returning employees are eligible to receive?*

A Any military service in excess of four years will not be counted as creditable service, unless such service was involuntary.

Credit for Military Service Earned Prior to Membership Service

Q *Could I receive credit for military service rendered prior to becoming a public employee?*

A Many retirement systems have accepted local option legislation which would allow veterans, who have completed ten years of membership service, to purchase up to four years of creditable service corresponding to their military service. Please see the definition of veteran under the Retirement Allowance Section of this Guide. For each year of military service sought, an eligible member is required to pay ten percent of the regular annual compensation that he/she was being paid upon entering the retirement system. Members may not receive credit for military service for which they have already received credit under the leave of absence

provision discussed above. Members who are veterans should contact their local retirement board to determine if their system has accepted this local option legislation and to determine if they are eligible.

Eligibility for Retirement

Q *What is the definition of superannuation?*

A “Superannuation” is the term that is used to describe the process of being retired upon reaching a certain age and meeting other requirements, including, in most cases, length of creditable service.

Q *When am I (members of Groups 1, 2, and 4) considered eligible to retire on the basis of superannuation?*

A If your membership began prior to January 1, 1978, upon attaining age 55 you are eligible to retire. There are no minimum service (vesting) requirements for members in this category.

- If your membership began on or after January 1, 1978 and you are a member of Group 1 or Group 2, you must have at least ten years of creditable service, and be age 55 or older to be eligible to receive a retirement allowance. If such a member terminates their employment prior to completing ten years of creditable service, eligibility for benefits is limited to a refund of accumulated deductions. A superannuation retirement allowance would not be payable.
- You are eligible to retire at any age if you have twenty years of creditable service.

Special Provisions for Group 3 Members

Q *When is a State Police Officer (Group 3 member) eligible to retire?*

A Any member who has performed service in the Department of State Police for at least twenty years may elect to retire at any age prior to age 55. State Police officers should contact the State Board of Retirement for more information with regard to their retirement benefits.

Mandatory Retirement & Service after Age 65 for Certain Group 2 & 4 Members

There is no mandatory retirement age for Group 1 members. Some Group 2 and Group 4 members must retire on the last day of the month in which they attain age 65, the maximum retirement age for their positions. Pursuant to Chapter 415 of the Acts of 1987, most members of Groups 2 and 4 are authorized to remain in service after age 65.

Q *How will I know if my position is excluded from the mandatory retirement law?*

A Other than police officers, fire fighters and correction officers, most Group 2 and 4 employees may continue in service beyond the mandatory retirement age of 65.

Not less than four months before your sixty-fifth birthday, your retirement board must determine whether your position is excluded from the mandatory retirement law. Your retirement board will present you with written

notification of its determination.

If the board determines that you are not eligible to continue working, the board will notify you of the date on which you will be required to retire.

Q *Will retirement deductions be taken from my salary if I work after age 65?*

A Yes, deductions will continue to be taken from your regular compensation. Your retirement allowance will be based upon your age at retirement, and the amount of creditable service you have earned by your retirement date. It will also include regular compensation earned after 65, if it represents your three highest earning years.

Service after Age 70

All Group 1 members and those members of Groups 2 and 4 who are exempt from the mandatory retirement age of 65 may continue to work after age 70.

Q *What procedures are applied to those who choose to continue in service after age 70?*

A At least 120 days before the last day of the month in which such a member in service attains age seventy, he/she will be contacted by his/her retirement board about retirement benefits, options, and procedures for continuing in service beyond age seventy.

Q *How will my retirement allowance be affected if I choose to remain in public service after my 70th birthday?*

A For service rendered after age 70, retirement deductions become optional.

If you choose to continue having deductions taken (once

made, this choice is irrevocable), regular compensation earned during this period may be used in the calculation of your retirement allowance calculation and you will be given credit for whatever additional service you render. However, the annuity factor used in the calculation of your allowance will remain fixed at 2.5.

If you elect to discontinue retirement deductions, any regular compensation earned during this period cannot be used to calculate your retirement allowance and no additional creditable service will accrue.

Vesting

Q *What is the definition of vesting?*

A “Vesting” is the term commonly used to signify the establishment of the right to a retirement allowance. Vested benefits are those benefits that do not depend upon the member remaining in service in order to be entitled to them.

Q *When is a member considered to be vested?*

A Any individual (in Group 1 or Group 2) who becomes a member of a public employee retirement system after January 1, 1978, and who has at least 10 years of service, and whose accumulated payroll deductions are on deposit with the retirement system may request a retirement allowance upon attaining age 55.

Q *Are there any exceptions to the ten-year creditable service requirement?*

A Any individual (in Group 1 or Group 2) whose membership in a public employee retirement system began before January 1, 1978, and who maintains an annuity savings fund account with that retirement system is eligible to receive a

superannuation retirement allowance at age 55 or later, regardless of how many years of creditable service he/she has completed.

Elected officials who have completed at least six years of creditable service and who, before age 55, fail to be nominated or reelected or fail to become a candidate for nomination, re-election or election or fail to be re-appointed or whose office or position is abolished, can leave their payroll deductions in their annuity savings fund accounts and be eligible to receive a termination retirement allowance at age 55 or later.

Retirement Allowance

A public employee retirement allowance consists of two parts: an annuity and a pension.

Annuity

Q *What is an annuity?*

A The contributions that are deducted during the course of your creditable service are deposited for you in an annuity savings fund by your retirement board. The interest that accrues on these contributions is credited to your individual account. That part of your retirement allowance that is based on the total amount in your annuity savings account on the date of your retirement is the annuity.

Pension

Q *What is a pension?*

A A pension is the difference between the total retirement allowance specified by law and the amount provided by employee contributions.

Factors

Q *What factors effect the amount of my superannuation retirement allowance?*

A The amount of your retirement allowance depends on

- your age,
- your length of creditable service,
- the amount of your average annual rate of regular compensation,
- and your group classification.

Group Classification

Q *How are groups classified within the system?*

A Type of occupation, position or duties determines classification. Retirement boards assign employees to one of four specific groups based upon the classifications set out in section three of Chapter 32.

- Group 1 members are officials and general employees including clerical, administrative and technical workers, laborers, mechanics, and all others not otherwise classified.
- Group 2 includes certain employees with hazardous occupations, such as ambulance attendants, licensed electricians, and mental health hospital attendants.
- Group 3 is made up of state police officers.
- Group 4 consists of public safety officers, officials, and employees, such as police officers, firefighters, and certain correction officers.

Basic Formula

Q *How is a superannuation retirement allowance calculated under the provisions of Chapter 32?*

A The basic formula for calculating a Superannuation Retirement Allowance is: Your Benefit Rate x Your Highest

Three Year Average Annual Rate of Regular Compensation x
Your Creditable Service = Retirement Allowance.

Benefit Rate

Q *What is my benefit rate?*

A Your age (as of your last birthday) at retirement and your group classification determine your benefit rate. The benefit rate is a specific percentage of the amount of the average annual rate of regular compensation.

The chart that follows shows the percentages used in the formulas that are specified in Chapter 32 of the Massachusetts General Laws.

Q *Are there special provisions pertaining to Group 4 members who terminate their public service prior to their forty-fifth birthday?*

A The retirement allowance of a Group 4 member, with at least 20 years of creditable service, whose termination from service and whose retirement allowance both become effective before age 45 is computed by using the percent for age 45 for Group 4 members that is contained in the following chart, with one tenth of one percent subtracted for each year that the age at the member's last birthday is under age 45.

The retirement allowance of a Group 4 member, with at least 20 years of creditable service, who terminates service before age 45 and whose retirement allowance becomes effective after age 45 is computed as if the member were classified in Group 1, unless the member defers retirement until after age 55. If the member does defer retirement until after age 55, he or she would retire under the provisions of section five of Chapter 32 and his/her retirement age would be computed using the percent for the member's age at

retirement for a Group 4 member as shown on the following chart.

BENEFIT RATE CHART

AGE UPON THE DATE OF YOUR RETIREMENT	PERCENTAGE OF AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		
	GROUP 1	GROUP 2	GROUP 4
65 or over	2.5	2.5	2.5
64	2.4	2.5	2.5
63	2.3	2.5	2.5
62	2.2	2.5	2.5
61	2.1	2.5	2.5
60	2.0	2.5	2.5
59	1.9	2.4	2.5
58	1.8	2.3	2.5
57	1.7	2.2	2.5
56	1.6	2.1	2.5
55	1.5	2.0	2.5
54	1.4	1.4	2.4
53	1.3	1.3	2.3
52	1.2	1.2	2.2
51	1.1	1.1	2.1
50	1.0	1.0	2.0
49	0.9	0.9	1.9
48	0.8	0.8	1.8
47	0.7	0.7	1.7
46	0.6	0.6	1.6
45	0.5	0.5	1.5
44	0.4	0.4	1.4
43	0.3	0.3	1.3
42	0.2	0.2	1.2
41	0.1	0.1	1.1

Q *How much will my benefit rate increase if I choose to retire after age 55?*

A Please refer to the preceding chart. For example, at age 58, the age factor used for a Group 1 employee would be 1.8%.

Average Annual Rate of Regular Compensation

Q *Are all forms of compensation received from my employer considered regular compensation for retirement calculation purposes?*

A No, certain payments including bonuses, overtime, severance pay, any and all unused sick leave, or any other payments made as a result of giving notice of retirement are not considered part of a member's regular compensation and are not included in retirement calculations.

Q *Which of my yearly amounts of compensation will be used in the calculation?*

A The retirement formula specifies that members must average annual rates of regular compensation earned in any three consecutive years, or rates earned during the period or periods, whether or not consecutive, which constitute the last three years of service preceding retirement. The law further provides that the benefit must be calculated upon the highest possible average obtainable given those specifications.

Creditable Service Record

The third part of the basic formula is the creditable service that you have earned. It must be measured in full years and completed months. In some cases, part time service will be prorated. Members are urged to check with their retirement boards with respect to regulations governing proration of part time service. Such regulations vary from board to board.

Veteran

Q *As a veteran, am I entitled to any additional benefits?*

A If you are a veteran, as defined in section one of Chapter 32, you will receive \$15 a year extra for every year or fraction thereof of creditable service, up to a maximum

additional benefit of \$300 a year.

Veterans who have completed ten years of membership service may be entitled to purchase creditable service for military service rendered before becoming public employees or while on leave from public service. Please see the section of this guide pertaining to Creditable Service for further details.

Q *How is the term 'Veteran' defined in the Massachusetts General Laws?*

A "Veteran" shall mean any person, male or female, including a nurse, (A) whose last discharge or release from wartime service, was under honorable conditions and who (B) served in the Army, Navy, Marine Corps, Coast Guard, or Air Force of the United States for not less than ninety days of active service, at least one day of which was for wartime service, provided, that any person who so served in wartime and was awarded a service-connected disability or a purple heart, or who died in such service under conditions other than dishonorable, shall be deemed to be a veteran notwithstanding his failure to complete ninety days of active service.

"Wartime service" shall mean service performed by a "Spanish war veteran", a "World War I veteran", a "World War II veteran", a "Korean veteran", a "Vietnam veteran", a "Lebanese Peace Keeping Force veteran," a "Grenada Rescue Mission veteran," a "Panamanian Intervention Force Veteran", a "Persian Gulf veteran", or a member of the "WAAC", during any of the periods of time described herein or for which such medals described below are awarded.

"World War II veteran" shall mean any veteran who performed such wartime service between September sixteenth, nineteen hundred and forty and December thirty-first, nineteen hundred and forty-six.

“Korean veteran” shall mean any veteran who performed such wartime service between June twenty-fifth, nineteen hundred and fifty and January thirty-first, nineteen hundred and fifty-five, both dates inclusive.”

“Vietnam veteran” shall mean (1) any person who performed such wartime service during the period commencing August fifth, nineteen hundred and sixty-four and ending on May 7, 1975 or (2) any person who served at least one hundred and eighty days of active service in the Armed Forces of the United States during the period between February first, nineteen hundred and fifty-five and August fourth, nineteen hundred and sixty-four, except that any such person who served in said armed forces during said period and was awarded a service-connected disability or a purple heart, or who died in said service under conditions other than dishonorable, shall be deemed to be a veteran notwithstanding his failure to complete one hundred and eighty days of active service.

“Lebanese Peace Keeping Force veteran” shall mean any person who performed such wartime service and received a campaign medal for such service during the period commencing August twenty-fifth, nineteen hundred and eighty-two and ending when the President of the United States shall have withdrawn armed forces from the country of Lebanon.

“Grenada Rescue Mission Veteran” shall mean any person who performed such wartime service and received a campaign medal for such service during the period commencing October twenty-fifth, nineteen hundred and eighty-three to December fifteenth, nineteen hundred and eighty three, inclusive.

“Panamanian Intervention Force Veteran” shall mean any person who performed such wartime service and

received a campaign medal for such service during the period commencing December twentieth, nineteen hundred and eighty-nine and ending January thirty-first, nineteen hundred and ninety.

“Persian Gulf Veteran” shall mean any person who performed such wartime service during the period commencing August second, nineteen hundred and ninety and ending on a date to be determined by Presidential Proclamation or Executive Order and Concurrent Resolution of the Congress of the United States.

“WAAC” shall mean any woman who was discharged and so served in any corps or unit of the United States established for the purpose of enabling women to serve with, or as auxiliary to, the Armed Forces of the United States and such woman shall be deemed to be a veteran.

“Veteran” shall also include any person who, instead of having performed “wartime service” as defined previously, has been awarded the Congressional Medal of Honor or one of the following campaign badges, Second Nicaraguan Campaign, Yangtze Service, Navy occupation, Service Army of Occupation or Medal of Humane Action: or has performed active service in the Armed Forces of the United States at any time between April sixth, nineteen hundred and seventeen and November eleventh, nineteen hundred and eighteen, inclusive.

None of the following shall be deemed to be a “Veteran”:

(A) Any person who at the time of entering into the Armed Forces of the United States had declared his intention to become a subject or citizen of the United States and withdrew his intention under the provisions of the Act of Congress approved July ninth, nineteen hundred and eighteen.

(B) Any person who was discharged from the said armed

forces on his own application or solicitation by reason of his being an enemy alien.

(C) Any person who has been proven guilty of willful desertion.

(D) Any person whose only service in the Armed Forces of the United States consists of his service as a member of the Coast Auxiliary or as a temporary member of the Coast Guard Reserve, or both.

(E) Any person whose last discharge or release from the Armed Forces is dishonorable.

“Armed Forces” shall include Army, Navy, Marine Corps, Air Force and Coast Guard.

“Active Service in the Armed Forces”, shall not include active duty for training in the Army National Guard or Air National Guard or active duty for training as a reservist in the Armed Forces of the United States.

Formula: Restrictions & Variations

Q *Is there a limit on the amount of a retirement allowance?*

A The superannuation retirement allowance of any member may not exceed 80% of his/her three-year average annual rate of regular compensation.

However, if you are a veteran, you are entitled to \$15 a year extra for every year or fraction thereof of creditable service, up to a maximum additional benefit of \$300.00 per year. Veterans can still receive this additional veteran’s benefit even if it causes their superannuation retirement allowance to exceed 80% of their average annual rate of regular compensation.

The following examples are presented to aid your understanding of the formula’s usage. Please note that annual

allowance figures are rounded off to be divisible by 12. Also, all benefits are calculated as though the member selected Option A. (For a discussion of options, please see the section of this guide entitled, “Options for Retirees.”)

Case 1

Group 1 member retiring as of Dec. 31, 1998 under the following conditions:

- (a) Age 55
- (b) 15 years and 6 months of creditable service
- (c) Three-year average annual rate of regular compensation = \$24,333
- (d) Non-veteran

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE	
(1.5 ÷ 100)	x	1998	\$27,000	x	15.5
= .015		1997	\$25,000		
		1996	<u>\$21,000</u>		
			\$73,000		
			÷		
			3	=	\$24,333.33

Total annual allowance is \$5,657.52. Monthly benefit is \$471.46.

Case 2

Group 1 member retiring as of Dec. 31, 1998 under the following conditions:

- (a) Age 68
- (b) 32 years of creditable service

- (c) Three-year average annual rate of regular compensation: \$16,000
- (d) Non-veteran

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE
.025	x	\$16,000	x	32

Total annual allowance is \$12,800.04. This allowance meets, but does not exceed 80% maximum.

Monthly benefit is \$1,066.67.

Case 3

Group 1 member retiring as of Dec. 31, 1998 under the following conditions:

- (a) Age 45
- (b) 20 years of creditable service
- (c) Three-year average annual rate of regular compensation: \$12,128
- (d) Non-veteran

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE
.005	x	\$12,128	x	20

Total annual allowance is \$1,212.84. Monthly benefit is \$101.07.

Case 4

Group 1 member retiring as of Dec. 31, 1998 under the following conditions:

- (a) Age 55 now

- (b) Member left public service at age 45 in 1982.
- (c) 20 years of creditable service
- (d) Three-year average annual rate of regular compensation: \$11,500
- (e) Non-veteran

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE
.015	x	\$11,500	x	20

Total annual allowance is \$3,450. Monthly benefit is \$287.50.

Case 5

Group 2 member retiring as of Dec. 31, 1998 under the following conditions:

- (a) Age 55
- (b) 15 years of creditable service
- (c) Three-year average annual rate of regular compensation: \$25,000
- (d) Veteran

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE
.020	x	\$25,000	x	15

Total annual allowance is initially computed to be \$7,500. However, because this member is a veteran, he is entitled to \$15 a year for each of his 15 years of creditable service:
 $15 \times \$15 = \225 .

Total annual allowance is \$7,725. Monthly benefit is \$643.75.

Case 6

Group 4 member retiring as of Dec. 31, 1998 under the following conditions:

- (a) Age 65
- (b) 41 years of creditable service
- (c) Three-year average annual rate of regular compensation: \$18,833
- (d) Veteran = $(15 \times 20 \text{ year maximum}) = \300

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE
.025	x	\$18,833	x	41

Total annual allowance is initially computed to be \$19,304.04. However, statutory provisions limit the allowance to 80% of \$18,833 = \$15,066.36. However, the veteran's credit should be applied. Total annual allowance is \$15,366.36. Monthly benefit is \$1,280.53.

Case 7

Group 4 member retiring as of Dec. 31, 1998 under the following conditions:

- (a) Age 43 at termination of service
- (b) 20 years of creditable service
- (c) Age 44 as of retirement date
- (d) Highest three-year average annual rate of regular compensation: \$27,000
- (e) Non-Veteran

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE
.014	x	\$27,000	x	20

Total annual allowance is \$7,560. Monthly benefit is \$630. Since the Group 4 member terminated service prior to his forty-fifth birthday and his retirement allowance became effective prior to his forty-fifth birthday, his allowance is calculated using the benefit rate for a Group 4 member.

Case 8

Group 4 member retiring as of Dec. 31, 1998 under the following conditions:

- (a) Age 44 at termination of service
- (b) 20 years of creditable service
- (c) Age 45 as of retirement date
- (d) Highest three-year average annual rate of regular compensation: \$27,000
- (e) Non-Veteran

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE
.005	x	\$27,000	x	20

Total annual allowance is \$2,700. Monthly benefit is \$225. Since the Group 4 member terminated service prior to his forty-fifth birthday but his retirement allowance became effective after his forty-fifth birthday, his allowance is calculated using the benefit rate for a Group 1 member.

Case 9

Group 4 member retiring as of Dec. 31, 1998 under the following conditions:

- (a) Age 44 at termination of service
- (b) 20 years of creditable service
- (c) Highest three-year average annual rate of regular compensation: \$27,000

- (d) Defers accepting retirement allowance until age 57
- (e) Non-Veteran

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE
.025	x	\$27,000	x	20

Total annual allowance is \$13,500. Monthly benefit is \$1,125. Since the Group 4 member terminated service prior to his forty-fifth birthday but he deferred accepting his retirement allowance until age 57, his allowance is calculated using the benefit rate for a Group 4 member.

Case 10

Group 2 member retiring as of Dec. 31, 1997 under the following conditions:

- (a) Age 55
- (b) 17 years of creditable service: (15 years as public employee, 2 years of military service = creditable service*)
- (c) Three-year average annual rate of regular compensation: \$25,000
- (d) Veteran

BENEFIT RATE		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF CREDITABLE SERVICE
.020	x	\$25,000	x	17

Annual allowance is \$8,500. However, because this member is a veteran, he is entitled to \$15 a year for each of his 17 years of creditable service: $17 \times \$15 = \255 . Total annual allowance is \$8,755. Monthly benefit is \$729.58

* Please note the calculation for the veterans' purchase of creditable service for two years of military service is as

follows. Average annual rate of regular compensation upon entry into public service: \$12,000.

PERCENT		AVERAGE ANNUAL RATE OF REGULAR COMPENSATION		YEARS OF MILITARY SERVICE
.010	x	\$12,000	x	2

Cost of purchase: \$2,400.00

Q *Is the same basic formula applied in every case?*

A The formula, as outlined above, applies in most cases and gives members an approximate figure for estimation purposes. The retirement law does include particular provisions for certain employees with unique circumstances who may be entitled to different benefits.

Q *Are there other formulas that are applied exclusively to veterans who meet creditable service requisites?*

A There are special formulas that are only applied to certain veterans who were Massachusetts public employees prior to July 1, 1939. Sections 56 to 60 of Chapter 32 of the Massachusetts General Laws address the calculation of allowances for these veterans. All eligible state employees are covered as well as members of the retirement systems of counties, cities, towns, and districts that have accepted the provisions of these sections.

Q *How is the allowance of a Group 3 member calculated?*

A The annual retirement allowance of a Group 3 member will be equal to 60% of the average annual rate of regular compensation received during the twelve month period immediately preceding the effective date of his/her retirement. The total amount of the allowance will be increased

by one twelfth of three percent for each full month of creditable service in excess of twenty years service earned prior to the last day of the month in which the member will attain the age of 55, not to exceed 75% of the average annual rate of regular compensation received during the twelve month period immediately preceding the effective date of his/her retirement.

Q *Does the law guarantee retirement benefits?*

A The payment of superannuation retirement allowances is considered to be a contractual obligation of the Commonwealth and its governmental subdivisions to retirement system members. Superannuation retirement allowances paid to members cannot be decreased or terminated during the member's lifetime.

Superannuation Application Procedures

Interaction with Retirement Board

Q *How can I find out about the retirement benefits to which I am now entitled or to which I may be entitled in the future?*

A Within thirty days of receiving a written request from you or your authorized representative, your board must provide you with a written notice of the estimated benefits to which you are or may be entitled and the dates upon which you would become eligible to receive such benefits.

Q *When may I file for retirement?*

A If you are actively employed or on leave of absence, you can apply to your retirement board no earlier than 4 months before your intended date of retirement. Members of Groups

1, 2, and 4 must file a written retirement application with their respective employer, in addition to the form filed with their retirement board.

Q *Will my retirement board ask me or my beneficiaries to produce additional information?*

A Retirement boards may request copies of particular certified records which are required by provisions of Chapter 32 or by rules and regulations of their own which are consistent with the law.

Among the documents which the board could ask you to submit are: birth certificates for you and your spouse, a marriage certificate, veteran's discharge papers, verification of student status, and proof of age for your dependent children.

Q *May I apply for more than one type of retirement?*

A You may file simultaneous applications for superannuation, accidental and ordinary disability, if you are eligible.

Q *When can I start to collect my retirement benefits?*

A You should contact your board about when you can expect to receive your first payment after your retirement allowance has been calculated and approved. After the initial payment, allowance checks are due and payable on the last day of each month.

Withdrawal of Application

Q *Am I allowed to withdraw my retirement application after I have submitted it to my retirement board?*

A You may withdraw your voluntary retirement application at any time prior to approval by PERAC or prior to approval by your retirement system, if PERAC does not review your system's benefit calculations. If you do change

your mind, you must inform your retirement board that you have decided not to retire.

Manner of Payment

Q *What are the provisions pertaining to the payment of small allowances?*

A Unless your normal yearly retirement allowance is less than \$600 a year, it must be paid to you in lifetime monthly payments. If your normal yearly retirement allowance is computed to be between \$360 and \$600, you may choose between a lump sum refund of your deductions, or a monthly allowance.

If your normal yearly retirement allowance is computed to be less than \$360 a year, you will be paid the full amount of your accumulated deductions in a lump sum instead of an allowance.

Waiver of Allowance

Q *May I, at any time, refuse to accept my retirement allowance?*

A Yes, you may waive all or any portion of a retirement allowance payable to you, your heirs, and legal representatives. In such a waiver, you may specify a certain period or you may waive until further notice.

You may waive your allowance and resume public employment without any limitations on your earnings. However, except in limited circumstances, the fact that you retired will make you ineligible to once again become a member-in-service. You cannot contribute to the retirement system and no additional benefits will accrue. Please see the section of this booklet pertaining to employment after superannuation retirement.

Action on Behalf of Incompetent Members

Q *Will my retirement rights and benefits be protected in the event I become incompetent?*

A Any option, election or right existing for you may be exercised or enforced for you if you have become incompetent or if for any other reason, you are unable to act on your own behalf. Your spouse is permitted to act on your behalf if your spouse is living with you. If you have no eligible spouse, your guardian or conservator may act. The person that is found by your board to be acting in your best interest would have authority to act in the event that you have no eligible spouse, guardian, or conservator.

Suspension of Benefits

Q *Are there any circumstances under which retirement benefits may be suspended?*

A Payments to an accidental or ordinary disability retiree who is incarcerated for a felony committed on or after July 1, 1996 will cease for the period of the retiree's incarceration.

Disabled retirees who fail to comply with reporting requirements about earned income may also be subject to suspension of benefits. In accordance with section 91A of Chapter 32, if a disabled retiree fails to submit an Annual Statement of Earned Income Form and the tax forms required by PERAC and does not show good cause for this failure, the retiree's rights to a disability retirement allowance will cease and will not be reinstated until the retiree has complied with the reporting requirement. Prior to any suspension of benefits, a disabled retiree must be given notice and an opportunity to be heard by his/her retirement board.

Forfeiture of Benefits

Q *Can I lose my rights to receive my retirement benefits due to misappropriation of funds?*

A You will forfeit your retirement allowance if your retirement board, after a hearing, finds that you have misappropriated funds or property of the governmental unit by which you are or were employed. Your right and your beneficiary's right to receive monthly benefits, or simply a refund of your accumulated deductions, is forfeited to the extent of the amount so misappropriated and to the extent of the costs of investigation, if any, as found by the board.

Q *Is there a circumstance that will result in the permanent loss of my pension and annuity?*

A In no event shall any member, after final conviction of an offense set forth in section two of Chapter 268A of the General Laws, pertaining to corruption in official conduct or section 25 of Chapter 265 of the General Laws pertaining to police or licensing duties, be entitled to receive a retirement allowance or a return of his/her accumulated total deductions, nor shall any beneficiary be entitled to receive any benefits under such provisions on account of such member.

Q *Could professional misconduct result in the permanent loss of my pension?*

A A member, after a final conviction of a criminal offense committed on or after January 12, 1988, involving violation of the laws applicable to his/her office or position, is not entitled to receive a pension benefit nor is any beneficiary. Unless otherwise prohibited by law, accumulated total deductions (without interest) are returned to the member or his/her beneficiary.

Cost-of-Living Adjustment

Q *Am I automatically entitled to an annual cost-of-living increase in my retirement allowance, pension, or annuity?*

A COLAs are not automatic. The decision to grant a COLA is made by the state legislature and Governor for retirees from the State and Teachers Retirement Systems. Recent legislation requires acceptance by the local retirement board and the appropriate legislative body before retirees from local retirement systems would be eligible for COLAs. Once the legislation has been accepted, a retirement system can vote to grant an increase for a given year. Every member and beneficiary in that system who was receiving an allowance as of June 30 of the prior fiscal year would then be entitled to a COLA. The percentage increase in an allowance will be made on the full amount of an allowance up to a base of \$12,000. The cost of living percentage is based on the cost of living increase granted under the Consumer Price Index, not to exceed 3.0%. In addition to this COLA, an additional COLA (up to a total COLA of 3% of \$12,000) may be granted pursuant to another local option section.

Employment after Superannuation Retirement

Q *Am I limited in the amount of income I earn or receive from other sources after my retirement for superannuation?*

A Only if you are re-employed in the service of the Commonwealth or any of its counties, cities, towns or districts.

Q *What are the restrictions pertaining to public service re-employment following superannuation retirement?*

A There are two strict limitations on further public employment in the Commonwealth following your superannuation retirement from a public service position. Your earnings for the period of re-employment in any calendar year, when added to your retirement allowance, cannot be greater than the salary currently being paid for the position from which you retired. And your re-employment is limited to a period of up to 960 hours, in the aggregate in any calendar year. Your employment must cease when either limitation is reached.

Q *Is there any public sector re-employment that is not affected by these limitations?*

A You may hold elective office, if the election is held after your retirement becomes effective,

- you may be paid for jury duty,
- you may be paid for services as an election officer,
- you may hold certain paid appointive positions, and
- certain emergency employment may be authorized.

Q *Under what circumstances may I become a member-in-service once a retirement allowance has become effective for me?*

A If, as a retiree, you are elected to office by popular vote or receive a particular type of appointment, you can elect to become a member-in-service if you repay, with interest, into the retirement system, the total amount of the allowance you have received from your date of retirement to the date you rejoin the system.

Disability retirees, who are returned to service under G.L. c. 32, s. 8, will become retirement system members

again and will receive creditable service for the years for which they receive disability retirement allowances, without cost.

Options for Retirees

“Option” is the term used to describe how your retirement allowance is allotted. Your allowance must be paid to you in lifetime monthly payments, but the apportionment of those payments will differ depending upon your option selection. Option choice also determines what benefits, if any, will be paid to survivors after a retiree’s death.

Making a Choice

Q *What factors should influence a member’s choice of option?*

A Your health and age at retirement, income from other sources, financial obligations, and the need to provide for others that may survive you are some of the factors that you should consider carefully.

Q *Are there any restrictions on my election of an option?*

A There are no restrictions. Any member is free to select either Option A or Option B or Option C.

Q *When must I make my option selection?*

A You must choose an option before the date your allowance becomes effective. Retirement board staffers are available to thoroughly discuss options with you prior to that date. If you refuse or fail to select an option before the date your retirement becomes effective, the law provides that you shall be retired under Option B.

Q *May I change my option choice?*

A You are not permitted to change your option selection

after your retirement becomes effective.

Spousal Acknowledgment

Q *Must my spouse acknowledge my option election?*

A Retirement boards must provide members and their spouses with detailed information regarding benefit options to help them make informed decisions.

A married member's Choice of Retirement Option Form must be signed by the member's spouse to acknowledge the spouse understands the option chosen. If a married member files a Choice of Retirement Option Form that has not been acknowledged by his or her spouse, the retirement board is required to notify the member's spouse of the option selected within fifteen days by registered mail.

Thirty days after the member's spouse has been notified as provided above, the option would take effect. The effective date of the member's retirement will not be affected by the requirement that spousal acknowledgment must be requested.

Options Available at Retirement

Option A

Election of Option A means that you will receive your full retirement allowance in monthly payments as long as you live. All allowance payments will cease upon your death and no benefits will be provided for your survivors.

Option B

Option B provides you with a lifetime allowance which is 3% to 5% less per month than Option A. The annuity portion of your allowance is reduced to allow a benefit for your beneficiary. Upon your death, your surviving beneficiary of record, or if there is no beneficiary living, the person or per-

sons appearing in the judgment of your retirement board to be entitled thereto will be paid the unexpended balance of your accumulated total deductions from the annuity reserve account.

Q *How soon would my contributions be depleted?*

A Although your retirement allowance is not reduced because of the depletion of your accumulated deductions, it is generally the case that your deductions are used up within twelve to fifteen years of your retirement, depending upon your age at retirement. In the event of your death, any balance that does remain will be paid to your beneficiary.

Q *Is my choice of beneficiary limited under Option B?*

A Under Option B, you may designate any person(s) or charity or institution as your beneficiary. You may, at any time after retirement, change your Option B beneficiary (but not your option selection).

Option C

Option C is also known as the joint and last survivor allowance. Selecting this option means that the allowance payments that you would receive during your lifetime would be approximately 20% less than those you would receive under Option A. Upon your death, your designated beneficiary will be paid a monthly allowance for the remainder of his or her lifetime. That allowance will be equal to two-thirds of the allowance which was being paid to you at the time of your death.

Q *What determines the monthly payments of an allowance payable under Option C?*

A The monthly allowance you receive under Option C

depends upon life expectancy factors for you and your designated beneficiary.

Q *Who may I name as a beneficiary under Option C?*

A You may name only one beneficiary under Option C. The eligible beneficiaries are limited to your spouse, your former spouse (provided he or she has not remarried at the time you designate him/her as your Option C beneficiary), your child, your parent, or your sibling.

Q *May I change my Option C beneficiary?*

A You may not change your Option C beneficiary after your retirement becomes effective.

Q *If my spouse dies after receiving allowance payments under Option C, will benefits then be payable to our children?*

A Each child would be eligible to receive an equal share of the allowance its parent/your spouse had been receiving. Payments would be made to the legal guardian of each child and would cease upon the child's 18th birthday.

Option C "Pop Up"

Q *How does my allowance change under Option C if my beneficiary dies before I do?*

A If your allowance was as the result of an application filed on or after January 12, 1988 and your Option C beneficiary dies on or after that date and before you die, you will thereafter be paid the full retirement allowance you would have received had you elected Option A at the time your retirement allowance became effective. (This conversion is commonly referred to as the Option C "Pop-Up".) Any cost-of-living increases that have been granted since your Option C retirement became effective will be reflected in your newly

established Option A allowance. All payments will cease upon your death.

For retirees whose retirement became effective before January 12, 1988 and who chose Option C and who are predeceased by their beneficiaries, extension of the Option C “Pop-Up” benefit is determined by their respective retirement board’s (and relevant “legislative body’s”) acceptance of section 288 of Chapter 194 of the Acts of 1998. Under Section 288, such adjustments must be made prospectively from July 1, 1998. No payment can be made relative to the period, if any, from the date of the death of the beneficiary to July 1, 1998.

Effect of Divorce on Option C Beneficiary

Q *Does divorce following retirement change the status of my former spouse as my Option C beneficiary?*

A If you named your former spouse as your Option C beneficiary when you were married, your former spouse will continue to be your Option C beneficiary even if you are divorced after retirement.

Social Security

Benefits paid under the provisions of Chapter 32 will offset Social Security benefits in a variety of circumstances. Although a Massachusetts retirement allowance cannot be reduced as a result of other retirement benefits, Social Security benefits might be reduced.

Individuals who are eligible to receive benefits from a Massachusetts contributory retirement system and from the federal Social Security System, as a result of their own employment, or a combination of their own employment

and benefits as a spouse or a surviving spouse should contact their local Social Security Office for detailed information.

Survivor Benefits

In many instances, benefits are payable to the survivors of public employees who are members of a Massachusetts contributory retirement system at the time of their death. The amount of benefits payable in any particular instance depends on a number of factors including the length of the member's creditable service, the eligibility of the member's immediate family, and the cause of the member's death.

Please refer to PERAC's *Guide to Survivor Benefits*.

Retirement board staff members are also available to interpret the specifics of the law and to assist you.

Disability Retirement

Massachusetts retirement law provides for two different types of disability retirement: accidental and ordinary.

Members who are considering disability retirement should refer to PERAC's *Guide to Disability Retirement for Public Employees* to enhance their understanding of their rights, benefits, and the entire disability process.

Accidental Disability: Eligibility

Q *Who is eligible to apply for an accidental disability retirement?*

A Generally, if a member's permanent and total incapacitation prevents him/her from performing the essential duties

of his/her position because of a personal injury sustained or a hazard undergone while in the performance of his/her duties at a definite time and place and without serious and willful misconduct on his/her part, he/she is eligible to apply.

However, firefighters, municipal police officers, elected officials, personal staff of an elected official chosen by that elected official, policy-making appointees or immediate legal advisors of an elected official and state court judges must apply before reaching the maximum age for their group.

Notice of Injury Requirement

Q *Should I notify my retirement board if I am injured on the job?*

A If you have an accident on the job, or are exposed to a health hazard, it is critically important that a notice of injury is filed with your retirement board in addition to the notice filed with your employer. The notice should be filed within 90 days of the occurrence of the injury or exposure. This establishes the time, place, and occurrence of the accident for future reference. If you later become disabled and more than two years have passed since the accident or hazard, it is imperative that you have an official record in order to seek accidental disability benefits. The notice of injury serves as the official record. Workers' Compensation records or official department records may also be utilized.

Ordinary Disability: Eligibility

Q *Who is eligible to receive an ordinary disability retirement allowance?*

A Any member is eligible whose permanent and total incapacitation, due to sickness or injury that is not job-relat-

ed, prevents him/her from performing the essential duties of his/her position.

Q *Do applicants for ordinary disability retirement have to meet any minimum age or service requirements?*

Non-Veterans

Service requirements vary. Applicants, who file for ordinary disability retirement on or after January 12, 1988, from the State Retirement System, the Teachers Retirement System and any other system that has accepted section 31 of Chapter 697 of the Acts of 1987, must have been granted at least ten years of creditable service. All other applicants must have been granted at least fifteen years of creditable service.

Veterans

Members who are veterans must have been granted at least ten years of creditable service.

Involuntary Retirement

Q *Does my department head have the right to file an application to retire me?*

A Your department head may file an application to retire you (Group 1, Group 2, or Group 4 members) upon the basis of disability (or superannuation). The minimum creditable service and age requirements that are applied to applications filed by members also apply to retirement applications initiated by an employer.

Q *How is the process begun, and do I have any immediate recourse if I feel I should not be retired?*

A Your department head will initially file a form with your retirement board, which requires no information or any statement from you. A copy of this form must be sent to you simultaneously. Within fifteen days of receiving your copy of the Application, you may request a hearing before your retirement board if you are a member-in-service of Group 1, Group 2, or Group 4 who has attained age 55 and who has completed 15 or more years of creditable service, or if you haven't attained age 55 but have completed twenty or more years of creditable service.

Q *Will the process include a medical examination and evaluation?*

A If you are not entitled to an initial hearing and/or your retirement board accepts the appropriateness of the disability application, the involuntary process will continue through the same medical evaluation process that governs a voluntary application for a disability retirement.

Any Group 1, Group 2, or Group 4 member who has been involuntarily retired and has attained age fifty-five and completed fifteen or more years of creditable service, or any member so classified who has not attained age fifty-five but who has completed twenty or more years of creditable service, or any such member who is a veteran and has completed ten or more years of creditable service may seek review of such action in the district court in the district in which he/she resides within 30 days after the certification of the retirement board's decision.

Refunds

Q *What is a refund?*

A A refund is a lump sum returned to you of your accumulated total deductions plus accrued interest which have been set aside in an individual account in the Annuity Savings Fund administered by your retirement board. Monies held in the Annuity Savings Fund earn interest at a rate set annually by PERAC in conjunction with the Commissioner of Banks. (Please see the discussion about limitations on interest payments that follows.)

Q *When may I request a refund of my contributions?*

A You may request a refund following your termination from public service. Although the length of time it takes to process a refund varies among retirement boards, the law says you shall receive your refund within 60 days after filing a written request on a prescribed form with your retirement board.

There may be substantial federal tax consequences if you take a direct refund of your deductions rather than rolling them over into another qualified retirement plan. Your retirement board will provide you with information about the potential tax consequences.

An individual's ability to obtain a refund may be affected by a Department of Revenue Child Support Enforcement Order.

Limitations on Interest

Q *If I apply for a refund when I resign, am I entitled to receive full payment of the interest that my contributions have earned during my public service?*

A There can be limitations on the payment of the interest that has accrued in your Annuity Savings Fund account at your retirement board.

Q *What are these limitations?*

A Interest limitations can affect individuals whose membership began after January 1, 1984. If you voluntarily withdraw from public service with less than five years of creditable service, you will receive no interest on your accumulated deductions.

If you voluntarily withdraw from public service with a minimum of five years of creditable service but less than ten years of creditable service, you will receive 50% of the interest that has accrued on your payroll deductions over the entire length of service.

If you voluntarily withdraw from public service with at least ten years of creditable service, you will receive 100% of the interest that has accrued.

Restrictions on Withdrawal of Annuity Monies

Q *Who is ineligible to apply for a refund?*

A All members-inactive who are receiving retirement allowances are ineligible to request a refund because their accumulated total deductions are being used on an on-going basis to provide a portion of their retirement allowance.

In addition to those members who are already retired, you may not request a refund if:

- you continue to be a member-in-service;
- you are on an official leave of absence;
- you have a Workers' Compensation claim pending or if you are receiving Workers' Compensation benefits for total incapacity;
- you have been charged with, or convicted of, misap-

propriation of funds or property of the governmental unit by which you were employed;

- you are appealing a dismissal or you have otherwise expressed your intent to continue in public employment.

Change in Dual Membership Status

Q *May I request a refund upon termination from one of my public service positions?*

A If you terminate from one position for reasons other than retirement, but continue to be employed by another governmental unit, your retirement account may be refunded to you upon your written request if your contributions to your first position's retirement system are less than your contributions to the retirement system of which you remain a member. Otherwise, your account must be transferred to the retirement system of the governmental unit in which you are still actively employed.

Transferring within Public Service

Q *May I request a refund upon transferring from one public service position to another?*

A You are not entitled to a refund if you have resigned for the purpose of accepting an appointment to a position in the service of the Commonwealth of Massachusetts or a political subdivision thereof, which is subject to the provisions of the contributory retirement law.

Repayment of Contributions

Q *If I return to public service, am I required to return contributions that I withdrew?*

A When you return to public service, you are not required to pay back any contributions that you withdrew.

Repayment of these monies plus interest to re-establish your earlier creditable service is optional.

Buying Back Creditable Service

Q *How do I re-establish creditable service for retirement purposes?*

A Your prior creditable service will count toward your retirement allowance only to the extent that you buy back the creditable service associated with the annuity savings fund deductions that were refunded to you. “Buy-backs” must include the amount withdrawn plus annual interest to the date of repayment. “Buy-back” payments can be made on an installment basis.

Interest Accrual

Q *What if I continue to maintain my Annuity Savings Fund Account with the retirement system even though I have resigned from public service? Will interest still continue to accrue on my Account?*

A Your accumulated deductions will continue to earn interest after you resign. The interest that may be paid to you, if you later seek a refund, is limited to that which accrues during the first two years following your resignation. As is the case with interest earned prior to withdrawal from public service, your date of employment and length of service will determine how much of the interest accrued during this two year period can be paid to you. Please see the answer under “Limitations on Interest” for the details.

Q *If I return to public service without having taken a refund, will my Account earn interest?*

A If you maintain your Account with the retirement system and later return to public service, interest will be credited to your Account for the entire period of your absence. If you

again leave public service and request a refund, the limitations stated above will apply.

Appeals

Q *Who has the right to appeal to CRAB and when must an appeal be filed?*

A Any person who is aggrieved by a decision of a retirement board or the Public Employee Retirement Administration Commission or by the failure of a board or PERAC to take action may appeal to the Contributory Retirement Appeal Board (CRAB). In some cases, appeal lies with the district court. (This is discussed more fully below.)

Appeals to CRAB must be filed within 15 days of the date that the board or PERAC acted or was supposed to act. If Chapter 32 does not specify a time within which a board or PERAC is required to act, an appeal of a failure to act must be filed within 15 days after the end of one month following the date that a written request to act was filed with the board or with PERAC.

Q *Who are the members of CRAB?*

A The board consists of three members, an Assistant Attorney General, who acts as the chairman; a designee of PERAC, and a person appointed by the Governor. If the matter being considered by CRAB concerns a disability retirement, the Commissioner of Public Health or his designee will substitute for PERAC's designee.

Q *How does this appeals process work?*

A Within a period of not less than 10 days or more than 60 days after the appeal is filed, CRAB must assign the matter to an Administrative Magistrate from the Division of

Administrative Law Appeals. The Administrative Magistrate will conduct a hearing and issue a written decision that shall become final and binding upon the board and all other parties. This decision shall be complied with unless, within 15 days, either party files a written objection to CRAB or CRAB orders in writing that it will review the decision of the Administrative Magistrate and take action it deems appropriate. CRAB's final decision may be appealed to the Superior Court.

Q *Is there another avenue of appeal available?*

A If you are a member of Group 1, Group 2, or Group 4 who has attained age 55 and who has completed 15 or more years of creditable service, or if you haven't attained age 55 but have completed 20 or more years of creditable service, or if you are a veteran and have completed ten or more years of creditable service, you may petition the district court for review of certain decisions involving involuntary retirement or dereliction of duty.

However, in cases where a member has fully cooperated with the processing of an involuntary retirement application, CRAB has held that such cooperation effectively transforms the application from one of an involuntary nature to a voluntary one. In such circumstances, CRAB has held that it still has jurisdiction to hear the appeal.

Q *If I am awaiting a decision about disability, may I take a superannuation allowance for which I am qualified?*

A You are permitted to take a superannuation retirement allowance (if otherwise eligible) pending a ruling by CRAB pertaining to your disability retirement allowance. Your acceptance of a superannuation allowance will not prejudice your case for receipt of further benefits.

Massachusetts Taxation

Contributions

Q *Is the portion of my salary that is deducted for contribution to the retirement system excludable from Massachusetts income tax?*

A Yes, the exclusion is limited to \$2,000.

Refunds

Q *Will Massachusetts tax any refunded contributions that I may receive after my resignation from public service?*

A The amount of your refund that represents your contributions is not subject to Massachusetts income tax. However, the Commonwealth will tax all of the interest that you receive.

Retirement Allowances

Q *Are retirement allowances subject to Massachusetts income tax?*

A Contributory retirement allowances (sections 1-28 of Chapter 32) are not subject to Massachusetts taxes.

Federal Taxation

PERAC has no special expertise or jurisdiction with respect to issues of federal taxation. The following reflects PERAC's understanding of current federal laws relating to taxation of retirement benefits.

Contributions

Q *Is the portion of my salary that is deducted for contribution to the retirement system subject to federal taxation?*

A Retirement contributions made prior to January 12, 1988 and buy backs of creditable service (whether made prior to or after January 12, 1988), are considered employee

contributions and are not considered to be excludable from taxable income.

Retirement contributions made after January 12, 1988 are considered employer contributions. Your employer reduces your gross salary for federal income tax purposes by your required retirement contribution amount. This reduces the amount of your income subject to federal taxation and consequently decreases the amount of federal withholding.

For employees who belong to private tax deferred plans or who have purchased tax-sheltered annuities, this change could affect the maximum amount that may be contributed to such plans or annuities. Such employees should consider seeking the opinion of a tax consultant about making alterations to their voluntary plans.

Refunds

Q *Will I be taxed by the IRS on any refunded contributions that I may receive after my resignation from public service?*

A That portion of your contributions made prior to January 12, 1988 will not be subject to federal taxation.

That portion of your contributions made after January 12, 1988 is subject to federal taxation. All interest that you receive from your account is also subject to federal taxation.

Federal legislation may also require withholding for federal taxes on refunds received on or after January 1, 1993. When you request a refund, your retirement board will provide information on the federal requirements. In addition, if your withdrawal takes place prior to your reaching age 59 1/2, federal law may impose an additional penalty.

Superannuation Retirement Allowances

Q *Is any retirement allowance which I may receive tax exempt from federal taxation?*

A A percentage of your superannuation retirement allowance may be excluded from taxable income. The amount of the exclusion is determined by an IRS formula related to the amount of employee contributions (for this purpose, all contributions made prior to January 12, 1988 plus any buy backs made after that date may be excluded since you have already paid federal taxes on these contributions) and life expectancy. The balance of the allowance is subject to taxation (see IRS Publication #17).

For individuals whose retirement allowance began prior to the 1987 tax year, once the full amount of employee contributions has been excluded under the 3-year rule, payments are fully taxable.

Withholding Certificate for Pension or Annuity Payments

Q *How do I notify the federal government about my withholding preferences?*

A Withholding toward payment of federal income tax on your retirement allowance will be made by the retirement board in an amount to be specified by you. Retirement boards give their retirees Withholding Certificates for Pension or Annuity Payments (Form W4-P). You must complete this form and return it to your board. Your election as to whether you want withholding to apply should be made on this form. Your election will remain in effect until you revoke it. You may make any election or revoke any election as often as you wish by filing a revised form with your board.

Q *How is my allowance affected if I do not file the prescribed form?*

A If you fail to file a Withholding Preference Certificate, federal income tax to be withheld from your pension payments will be determined as if your pension payments were wages representing your only income and you were a married individual claiming three dependents.

Support Order & Attachments of Benefits

Q *Are retirement allowances and refunds subject to attachment to satisfy support orders?*

A Pursuant to the Act to Improve the Massachusetts Child Support Enforcement Program, if a member owes past-due child support, his/her retirement allowance (or contributions to Annuity Savings Funds if the member has requested a refund) can be attached to satisfy a child support order. Other support orders issued pursuant to Massachusetts General Laws, c. 208, c. 209, c. 209A, c. 209C or c. 273 may result in an attachment of your retirement allowance. No support order can create a benefit or entitlement to a benefit that would be inconsistent with the retirement laws.

Exemption from Assignment

Q *Are my retirement benefits subject to assignment?*

A No assignment of any right to an annuity, pension, or retirement allowance will be valid except:

- assignments made pursuant to certain support orders

(as discussed above),

- assignments made to provide restitution in instances of dereliction of duty,
- assignments made by a member for the purpose of payment of a health or life insurance premium, for a policy related to work and in effect on the member's retirement,
- repayments of benefits paid by the Commonwealth for those individuals who have become public charges (veterans benefits, welfare, etc.)
- notice of levy issued by the Internal Revenue Service for the purposes of collecting unpaid federal tax.

Continuation of Health & Life Insurance

Q *How does retirement affect my eligibility for group health and life insurance coverage?*

A Provision is made in the retirement law for the withholding of monthly premiums for your continued coverage in a group health and life insurance program sponsored by the governmental unit by which you are employed at the time of retirement.

While continuation of insurance coverage for retirees is an optional matter for the various governmental units in the Commonwealth, most cities and towns have accepted the necessary provisions. Members who are considering retirement are advised to check with their retirement board about whether the relevant governmental authorities have voted to extend this benefit. Members of the State, Teachers' and City of Boston Retirement Systems are eligible to receive this benefit from the Commonwealth.

Key Addresses & Phone Numbers

Public Employee Retirement Administration Commission

Five Middlesex Avenue
Third Floor
Somerville, MA 02145
(617) 666-4446

Contributory Retirement Appeal Board

133 Portland Street
Third Floor
Boston, MA 02114
(617) 727-7060

Massachusetts Department of Revenue

100 Cambridge Street
Boston, MA 02204
Attention: Taxpayer Assistance
(800) 392-6089

Internal Revenue Service

Taxpayer Assistance
(800) 829-1040

Social Security Administration

(800) 772-1213

Retirement Board

Contact your personnel officer for the phone number and address of your retirement board.

Additional Copies

There are three ways to obtain additional copies of the *Massachusetts Public Employee Retirement Guide*, the *Guide to Disability Retirement for Public Employees*, and the *Guide to Survivor Benefits for Public Employees*. You may download the guides for free at www.state.ma.us/PERAC. You may purchase the guides for \$.77 each at the counter of Room P-11 at the Plaza level of the McCormack State Office Building, located at 1 Ashburton Place in Boston. You may also mail order guides from the printer, Central Reprographics. Prices for mail order are listed below.

BOOKS	PRICE	POSTAGE	HANDLING	TOTAL
1	\$.77	\$.99	\$1.00	\$2.76
2	\$1.54	\$1.87	\$1.00	\$4.41
3	\$2.31	\$2.75	\$1.00	\$6.06
4	\$3.08	\$3.63	\$1.00	\$7.71
5	\$3.85	\$4.51	\$1.00	\$9.36
6	\$4.62	\$5.39	\$1.00	\$11.01
7	\$5.39	\$6.27	\$1.00	\$12.66
8	\$6.16	\$7.15	\$1.00	\$14.31
9	\$6.93	\$8.03	\$1.00	\$15.96
10	\$7.70	\$8.91	\$1.00	\$17.61

For quantities greater than 10, books will ship via UPS. Cost will be determined as follows: Books are \$.77 each, plus \$12.00 shipping per carton, and \$1.00 handling per carton. Each carton holds up to 200 books.

Please specify title and quantity. No cash, please. Checks should be made payable to Central Reprographics, 1 Ashburton Place, Room P-11, Boston, MA, 02108. Attention: Jack Ryan. (617) 720-3340.

Notes

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